

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

PERSEVERANZA SpA DI
NAVIGAZIONE

Plaintiff,

VS.

TUG ST. THOMAS, her engines, tackle,
appurtenances, etc., *in rem* and
MARQUETTE TRANSPORTATION
COMPANY GULF-INLAND, LLC

In Personam
Defendants.

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C.A. 4:18-cv-3062
Admiralty Rule 9(h)

VERIFIED ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Perseveranza SpA di Navigazione (“Perseveranza”) filing its Verified Original Complaint and for cause of action would respectfully show as follows:

I.

SUBJECT MATTER JURISDICTION

This is a cause of action within the admiralty and maritime jurisdiction of the United States and this Honorable Court in accordance with 28 U.S.C. §1333, and is filed pursuant to Rule 9(h) of the Federal Rules of Civil Procedure.

II.

THE PARTIES

Plaintiff Perseveranza is a foreign business entity with its principal place of business in Naples, Italy. Plaintiff Perseveranza was and still is the owner of the M/T MISS BENEDETTA, an ocean-going tanker vessel.

The ST. THOMAS, Official Number 1230766, of 183 gross tons, built in 2010, is a twin screw towboat owned and operated by Defendant Marquette Transportation Company Gulf-

Inland, LLC (“Marquette”). Plaintiff expects that the ST. THOMAS will be within the District and the jurisdiction of this Court during the pendency of this action.

Defendant Marquette is a limited liability company organized and existing under the laws of Delaware with its principal place of business in Harahan, Louisiana. Upon information and belief, Marquette was and now is engaged in the marine towing business for hire, and owned, operated, managed, chartered and/or otherwise controlled the ST. THOMAS. Marquette can be served with process via service on its registered agent in Texas, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

III.

THE COLLISION

On August 13, 2018, the M/T BENEDETTA was traveling inbound in the Houston Ship Channel under pilotage bound for Magellan Terminal to load cargo. The ST. THOMAS, pushing two barges, was traveling outbound in the Houston Ship Channel. As they approached each other the M/T BENEDETTA and the ST. THOMAS flotilla agreed to a port to port meeting. Despite the meeting agreement and M/T BENEDETTA’s avoiding maneuvers, the ST. THOMAS flotilla improperly turned to port and crossed the channel centerline, resulting in the lead barge of the ST. THOMAS flotilla colliding with the port side hull of the M/T BENEDETTA at approximately 0248 hours.

IV.

LIABILITY ALLEGATIONS

Plaintiff Perseveranza asserts and believes that the collision was solely caused by the unseaworthiness, fault and negligence of the ST. THOMAS as well as the fault and negligence of

Defendant Marquette in the following respects, among others, which will be shown at the trial of this matter:

- a. The ST. THOMAS was unseaworthy, inasmuch as it had insufficient ability to maintain control of its movements;
- b. The ST. THOMAS was manned by an incompetent and/or inexperienced crew;
- c. The ST. THOMAS failed to maintain an attentive and proper lookout;
- d. The ST. THOMAS failed to maintain its position as agreed;
- e. The ST. THOMAS failed to keep out of the way of the M/T MISS BENEDETTA;
- f. The ST. THOMAS failed to take action to avoid the collision in ample time with due regard to the observance of good seamanship;
- g. The ST. THOMAS was carelessly and negligently navigated, coming into contact with the M/T MISS BENEDETTA, without taking into consideration all factors to be considered by a competent navigator;
- h. The ST. THOMAS was improperly and inadequately maintained resulting in a steering failure causing the collision;
- j. Marquette's failure to maintain the ST. THOMAS resulting in a steering failure causing the collision;
- k. The actions and omissions of the Mate onboard ST. THOMAS were negligent and a cause of the collision; and
- l. The above listed and other negligent acts and omissions which caused the collision were within the privity and knowledge of Marquette.

Plaintiff Perseveranza reserves the right to amend this pleading to allege other faults and negligence on the part of the ST. THOMAS, *in rem*, and Marquette, *in personam*, as the facts pertaining to the collision are more fully developed.

V.

DAMAGES ALLEGATIONS

As a proximate result and in the aftermath of the August 13, 2018 collision, Plaintiff Perseveranza has sustained and continues to sustain significant losses, costs and expenses. The

M/T MISS BENEDETTA has been delayed and sustained physical damage which required repairs. Plaintiff Perseveranza currently estimates that the amount for repairs, loss of revenue, and other items of money damages will be approximately \$1,200,000.00, in addition to pre and post-judgment interest and costs. Defendants ST. THOMAS, *in rem*, and Marquette, *in personam*, are jointly and severally liable to Plaintiff Perseveranza for these damages.

VI.

AFFIRMATION OF PREMISES

All and singular the premises as recited above are true and correct and within the admiralty and maritime jurisdiction of the United States and this Honorable Court.

VII.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that:

- (a) Summons under due form and law be issued against Defendant Marquette Transportation Company Gulf-Inland, LLC;
- (b) The ST. THOMAS be arrested pursuant to Rule C of the Supplemental Admiralty Rules and condemned and sold;
- (c) Judgment be entered in favor of Plaintiff against Defendant Marquette Transportation Company Gulf-Inland, LLC for the amount of Plaintiff's damages, together with pre- and post-judgment interest, as well as the costs and disbursements of this action;
- (d) Process in the form of law according to the practice of this Court and causes of maritime and admiralty jurisdiction may issue against ST. THOMAS, her engines, tackle, etc., requiring all persons having or claiming interest in her be cited to appear and answer under oath, all and singular, the matters aforesaid, and that this court pronounce judgment against the ST. THOMAS, *in rem*, in favor of Plaintiff for said damages, together with pre- and post-interest judgment, cost and disbursements; and
- (e) That the Court grant Plaintiff such other and further relief, both in law and in equity, as may be just and proper.

Respectfully submitted,

By: /s/ David R. Walker

David R. Walker

Federal ID No. 2827

State Bar No. 20696800

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ATTORNEY FOR PLAINTIFF

PERSEVERANZA SpA DI NAVIGAZIONE

OF COUNSEL

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

STATE OF TEXAS

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VERIFICATION

COUNTY OF HARRIS

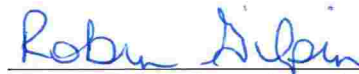
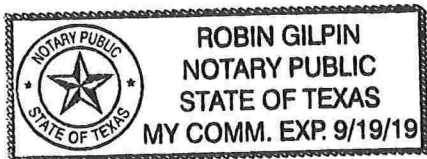
BEFORE ME on this day came David R. Walker, and being duly sworn, did depose and state:

My name is David R. Walker and I am a partner with the firm of ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P., attorneys for the Plaintiff herein. I have read the foregoing Verified Original Complaint and know the contents thereof and that the same is true and correct, based upon knowledge, information and belief. The reason this Verification is made by the undersigned is that he is an attorney for the Plaintiff which is a foreign business entity without offices or any director within this District.



David R. Walker

SUBSCRIBED AND SWORN TO BEFORE ME this 31st day of August, 2018.



Notary Public in and for the State of Texas